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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/731,267 | 12/08/2003 | Wesley H. Smith | 42P17112 | 4723 |
| 8791 | 7590 | 01/16/2007 | EXAMINER | |
| BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030 | | | WOO, STELLA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2614 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 01/16/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|----------------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/731,267 | SMITH, WESLEY H. | |
| | Examiner Stella L. Woo | Art Unit 2614 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 October 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-8,10-12,14-17,19 and 20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,3-8,10-12,14-17,19 and 20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 07/28/2006.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-8, 10-12, 14-17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green (US 2003/02150071 A1) Green in view of Velius (US 5,594,784), and further in view of Speeney et al. (US 6,570,983 B1, hereinafter “Speeney”).

Green discloses a method comprising:

transmitting data from an electronic system over a communications medium (modem 120 communicates with server modem 160 over telephone line 140; Figure 1A; paragraphs 10-11);

receiving an indication of an incoming telephone call transmitted over the communication medium (user receives a call waiting signal when an incoming call is received from third party terminal 170; paragraphs 2 and 16); and

maintaining the data session while halting the data transmission (the server modem 160 goes on hold when the user accepts the call using telephone 110; paragraph 16).

Green differs from claims 1, 3-8, 10-12, 14-17, 19-20 in that it does not teach accepting or terminating an incoming call by voice command. However, Velius teaches the desirability of allowing a call recipient to accept, refuse and terminate a call by voice command (col. 7, lines 34-45) such that it would have been obvious to an artisan of ordinary skill to incorporate such use of voice command, as taught by Velius, within the system of Green in order to provide the user with totally hand-free voice telephone communication.

Green further differs from claims 1, 3-8, 10-12, 14-17, 19-20 in that it does not teach the indication comprising a simulated human voice. However, Speeney teaches the well known use of a synthesized voice or the sound of human voice to audibly indicate the identity of a calling party (col. 4, lines 21-30; col. 5, lines 39 - col. 6, line 16) via a speaker (output device 250 can be a single speaker or a plurality of speakers; col. 3, line 66 – col. 4, line 3) of the electronic system (computing device; col. 4, lines 58-60). It would have been obvious to an artisan of ordinary skill to incorporate such use of a simulated human voice, as taught by Speeney, within the system of Green in order to audibly announce the presence and identity of an incoming call.

Regarding claims 3, 8, 14, in Green, the data session is maintained using the v.92 modem on hold feature (paragraphs 2 and 10), and voice communication takes place via the speaker and microphone of the handset of telephone 110 (Figure 1A).

Regarding claims 4, 10, 15, 19, in Green, data transmission is resumed upon termination of the incoming telephone call (Figure 4, steps 420, 430, 460; paragraphs 17-22).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 3-8, 10-12, 14-17, 19-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

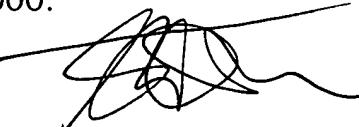
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Stella L. Woo
Primary Examiner
Art Unit 2614